

BURSOR & FISHER, P.A.
L. Timothy Fisher (State Bar No. 191626)
Emily A. Horne (State Bar No. 347723)
1990 North California Blvd., Suite 940
Walnut Creek, CA 94596
Telephone: (925) 300-4455
E-mail: ltfisher@bursor.com
ehorne@bursor.com

*[additional counsel listed on signature page]
Attorneys for Plaintiff*

TUCKER ELLIS LLP

Michael J. Ruttinger (admitted *pro hac vice*)
Ethan W. Weber (admitted *pro hac vice*)
950 Main Avenue
Suite 1100
Cleveland, OH 44113
Tel: (216) 592-5000
Fax: (216) 592-5009
Email: michael.ruttinger@tuckerellis.com
Ethan.weber@tuckerellis.com

Bart L. Kessel (State Bar No. 125080)
Anna-Sophie Tirre (State Bar No. 336835)
515 South Flower Street
Forty-Second Floor
Los Angeles, CA 90071
Tel: 213-430-3400
Fax: 213-430-3409
Email: bart.kessel@tuckerellis.com
Anna-sophie.tirre@tuckerellis.com

Attorneys for Defendant

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ROBIN HUMPHREY, individually and on behalf of all others similarly situated.

Case No. 3:22-cv-06913-WHO

**STIPULATION REGARDING
PLAINTIFF'S SECOND AMENDED
COMPLAINT**

Judge: Hon. William H. Orrick

THE J.M. SMUCKER COMPANY,
Defendant.

1 Pursuant to Fed. R. Civ. P. 15(a)(2), Plaintiff Robin Humphrey (“Plaintiff”) and Defendant
 2 The J.M. Smucker Company (“Defendant”) respectfully submit this Stipulation Regarding the Filing
 3 of Plaintiff’s Second Amended Complaint.

4 **STIPULATION**

5 WHEREAS, Plaintiff filed this action on November 4, 2022. ECF No. 1.

6 WHEREAS, on March 10, 2023, Plaintiff filed a First Amended Complaint. ECF No. 27.

7 WHEREAS, in doing so, Plaintiff alleged a cause of action for violation of California’s
 8 Consumers Legal Remedies Act (“CLRA”) for injunctive relief only. *Id.*

9 WHEREAS, on March 31, 2023, Defendant filed a motion to dismiss Plaintiff’s First
 10 Amended Complaint. ECF No. 28.

11 WHEREAS, on May 22, 2023, the Court issued an Order granting in part and denying in part
 12 Defendant’s motion to dismiss. ECF No. 34.

13 WHEREAS, on June 5, 2023, Defendant answered Plaintiff’s First Amended Complaint.
 14 ECF No. 37.

15 WHEREAS, on July 17, 2023, Defendant filed a supplemental certification of conflicts and
 16 interested entities or persons. ECF No. 40.

17 WHEREAS, in doing so, Defendant noted “[Defendant] on April 28, 2023 announced the
 18 closing of a transaction with Post Holdings, Inc. to sell several pet food brands, including 9 Lives®
 19 and Kibbles ‘n Bits®. That transaction included relevant trademarks and licenses, along with
 20 manufacturing and distribution facilities. It is counsel’s understanding that the acquired brands are
 21 operated by a wholly owned subsidiary of Post Holdings, Post Consumer Brands.” *Id.*

22 WHEREAS, as a result of Defendant’s supplemental certification of conflicts and interested
 23 entities or person, Plaintiff intends to file a Second Amended Complaint, naming Post Consumer
 24 Brands as an additional defendant to the present action.

25 WHEREAS, in addition, Plaintiff intends to amend her CLRA cause of action to add a claim
 26 for damages.

27 WHEREAS, Plaintiff’s counsel and Defendant’s counsel have conferred and agreed, that
 28 Plaintiff shall have until September 1, 2023, to file a Second Amended Complaint, naming Post

1 Consumer Brands as an additional defendant, as well as amending the CLRA cause of action to add
2 a claim for damages.

3 NOW, THEREFORE, the Parties stipulate, that Plaintiff shall have until September 1, 2023,
4 to file her Second Amended Complaint.

5 **IT IS SO STIPULATED.**

6 Dated: August 29, 2023

BURSOR & FISHER, P.A.

7 By: /s/ L. Timothy Fisher

8
9 L. Timothy Fisher (State Bar No. 191626)
10 Emily A. Horne (State Bar No. 347723)
11 1990 North California Blvd., Suite 940
12 Walnut Creek, CA 94596
Telephone: (925) 300-4455
Facsimile: (925) 407-2700
E-mail: ltfisher@bursor.com
ehorne@bursor.com

13 **BURSOR & FISHER, P.A.**

14 Jonathan L. Wolloch (admitted *pro hac vice*)
701 Brickell Avenue, Suite 1420
15 Miami, FL 33131
Telephone: (305) 330-5512
Facsimile: (305) 676-9006
Email: jwolloch@bursor.com

16
17 *Attorneys for Plaintiff*

18
19
20 Dated: August 29, 2023

TUCKER ELLIS LLP

21 By: /s/ Michael J. Ruttinger

22 Michael J. Ruttinger (admitted *pro hac vice*)
23 Ethan W. Weber (admitted *pro hac vice*)
950 Main Avenue
24 Suite 1100
Cleveland, OH 44113
Tel: 216-592-5000
Fax: 216-592-5009
Email: michael.ruttinger@tuckerellis.com
Ethan.weber@tuckerellis.com

25
26
27 **TUCKER ELLIS LLP**

28 Bart L. Kessel (State Bar No. 125080)
Anna-Sophie Tirre (State Bar No. 336835)

1 515 South Flower Street
2 Forty-Second Floor
3 Los Angeles, CA 90071
4 Tel: 213-430-3400
5 Fax: 213-430-3409
6 Email: bart.kessel@tuckerellis.com
7 Anna-sophie.tirre@tuckerellis.com

8 *Attorneys for Defendant*

9 **SIGNATURE ATTESTATION**

10 Pursuant to Civil L.R. 5-1(h)(3), the filer of this document attests that all signatories have
11 concurred in its filing.

12 By: /s/ L. Timothy Fisher
13 L. Timothy Fisher